

ADMINISTRATIVE POLICY



STATE OF WASHINGTON DEPARTMENT OF LABOR AND INDUSTRIES EMPLOYMENT STANDARDS

**TITLE: EMPLOYEE WEARING APPAREL
 AND UNIFORMS**

NUMBER: ES.C.8.1

CHAPTER: RCW 49.12.450

REPLACES: ES-027

ISSUED: 1/2/2002

ADMINISTRATIVE POLICY DISCLAIMER

This policy is designed to provide general information in regard to the current opinions of the Department of Labor & Industries on the subject matter covered. This policy is intended as a guide in the interpretation and application of the relevant statutes, regulations, and policies, and may not be applicable to all situations. This policy does not replace applicable RCW or WAC standards. If additional clarification is required, the Program Manager for Employment Standards should be consulted.

This document is effective as of the date of print and supersedes all previous interpretations and guidelines. Changes may occur after the date of print due to subsequent legislation, administrative rule, or judicial proceedings. The user is encouraged to notify the Program Manager to provide or receive updated information. This document will remain in effect until rescinded, modified, or withdrawn by the Director or his or her designee.

RCW 49.12.450 sets forth the circumstances in which employers are required to provide or pay for clothing that they require employees to wear on the job. RCW 49.12.450, which became effective June 11, 1998, is the most current legislation regarding employee uniforms or wearing apparel. Because the legislature chose to specifically define “uniform” and to define the specific instances when an employer must provide or compensate the employee for required clothing, this legislation replaces all prior department rules or policies governing uniforms or wearing apparel.

The term “employer” for the purpose of RCW 49.12.450 includes the state, any state institution, any state agency, political sub-division of the state, and any municipal or quasi-municipal corporation, as well as all private sector businesses with one or more employees. RCW 49.12.450 is to be applied in all situations, regardless of the impact on any of the provisions of RCW 49.46, the Minimum Wage Act.

If the required clothing is a “uniform,” the employer must absorb the full cost. A “uniform” is defined as:

1. Clothing clearly identifying the person as an employee of a specific employer.
2. Apparel specially marked with the employer's logo.
3. Unique apparel to identify historical or ethnic background.

4. Formal attire.

If the required apparel fits into one of the above categories, regardless of color, it is a uniform, and the employer is required to furnish the apparel or compensate employees for the apparel.

If required clothing is of a common color *and* conforms to a general dress code or style, the employer is not responsible for the cost. Only the following are considered *common colors*:

- Tops: white, tan, and blue (including light and dark variations of those colors).
- Bottoms: tan, black, blue, and gray (including light and dark variations of those colors).

If the required clothing is any color *other* than those above, the employer must provide or compensate the employee for the apparel.

If an employer changes the color of required clothing within two years after original requirements were instituted, the employer must compensate or provide new clothing to affected employees. The two-year period is calculated from the date the first directive goes into effect. The employer must furnish or compensate the employees for the new required clothing only if they are actually affected by the change, regardless of when in the two-year time period a particular employee is hired. For example, an employer requires white tops and black bottoms, effective six months after an earlier directive that tan tops and gray bottoms be worn. The employer in this situation would be obligated to purchase or cover the expense of the changed requirements for all affected employees.

The employer may change common color specifications at the end of any two-year period without incurring expense (provided the apparel meets the general dress code standards) even if some employees had worked fewer than two years.

The employer may require two sets of clothing of a common color and which conforms to a general dress code, in order to accommodate changing seasons. For example, the employer may require shorts for summer wear and full length trousers for other seasons.

The employer may not require deposits or make deductions from employee wages for uniforms. The basis for this conclusion is drawn from the statutory requirement that clearly places the burden of purchase upon the employer regardless of whether the uniform is issued from employer stock, a uniform rental company, or purchased by the worker from a retail or wholesale establishment.

The cost of normal wear and tear and loss due to workplace conditions is part of the cost of doing business and is wholly the responsibility of the employer.